

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN MERRILL,	:	1:13-cv-2061
	:	
Plaintiff,	:	
	:	Hon. John E. Jones III
v.	:	
	:	Hon. Martin C. Carlson
UNITED STATES OF AMERICA,	:	
	:	
Defendant.	:	

**ORDER**

**August 11, 2014**

**AND NOW**, upon consideration of the Report and Recommendation of Chief United States Magistrate Judge Martin C. Carlson (Doc. 43), recommending that the United States of America's Motion for Reconsideration our Order denying its Motion to Dismiss Plaintiff's FTCA claims be denied, and noting that neither party has filed objections and that there is no clear error on the record,<sup>1</sup> *see Nara v.*

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<sup>1</sup> When parties fail to file timely objections to a magistrate judge's report and recommendation, the Federal Magistrates Act does not require a district court to review the report before accepting it. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). As a matter of good practice, however, the Third Circuit expects courts to "afford some level of review to dispositive legal issues raised by the report." *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). The advisory committee notes to Rule 72(b) of the Federal Rules of Civil Procedure indicate that "[w]hen no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72(b), advisory committee notes; *see also Henderson*, 812 F.2d at 878-79 (stating that "the failure of a party to object to a magistrate's legal conclusions may result in the loss of the right to de novo review in the district court"); *Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006) (holding that the

*Frank*, 488 F.3d 187, 194 (3d Cir. 2007) (explaining that “failing to timely object to [a report and recommendation] in a civil proceeding may result in forfeiture of *de novo* review at the district court level”) and the Court finding Judge Carlson’s analysis to be thorough, well-reasoned, and fully supported by the record **IT IS HEREBY ORDERED THAT:**

1. The Report and Recommendation of Magistrate Judge Carlson (Doc. 43) is **ADOPTED** in its entirety.
2. The United States of America’s Motion for Reconsideration (Doc. 28) is **DENIED**.
3. This matter is **REMANDED** to Magistrate Judge Carlson for all further pre-trial management.

s/ John E. Jones III  
John E. Jones III  
United States District Judge

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court’s review is conducted under the “plain error” standard); *Cruz v. Chater*, 990 F. Supp. 375-78 (M.D. Pa. 1998) (holding that the court’s review is limited to ascertaining whether there is “clear error on the face of the record”); *Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) (holding that the court will review the report and recommendation for “clear error”). The Court has reviewed the magistrate judge’s report and recommendation in accordance with this Third Circuit directive.